

June 12, 2019

Ms. Jessica Krueger  
Whitney Bailey Cox & Magnani, LLC  
300 E. Joppa Road, Suite 200  
Baltimore, Maryland 21286-3015

Re: Stanley Black & Decker  
Forest Conservation Variance  
FC 05-19-3020

Dear Ms. Krueger:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by this Department of Environmental Protection and Sustainability (EPS) on May 30, 2019. This request proposes to remove one specimen tree for a new parking lot at an existing Stanley Black & Decker campus. There are 28 specimen trees on site, including a 112.5 inch diameter at breast height Elm tree. The tree proposed for removal is a Norway spruce. There is no forest on site. Overall Forest Conservation requirements were met in 2004. Two previous forest conservation variances to remove specimen trees were approved in 2017 and April 2019.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of beneficial use of his property. The applicant is seeking to accommodate additional parking on-site as part of a previously approved site redevelopment plan. The site currently contains an existing campus and parking. Full application of the law to the entire property would not result in unwarranted hardship to the applicant, and we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The site contains a corporate campus. Protection of this tree was originally anticipated when the parking lot plan was developed. However, based on current conditions, root pruning will not suffice to protect the tree. The site is already developed and therefore the circumstances here are unique and not related to the conditions of the neighborhood. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The property use will not change. The property is surrounded by residential development to the south and commercial/office development to the north. The proposal to add parking will not change the character of the neighborhood. Therefore, we find that this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. All sediment and erosion control techniques will be met during and after construction, stormwater management will be added on site, and the undersized public storm drain will be upgraded. Therefore, we find that granting of the special variance will not adversely affect water quality, and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not started construction and is seeking all permits and approvals. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Allowing additional parking is consistent. Therefore, this criterion has been met.

Based on our review, this Department finds that all of the required criteria have been met. Therefore, the variance request is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code contingent with the following conditions:

1. Add the following note to all plans for this project: "A Forest Conservation Special Variance was approved by the Baltimore County Department of Environmental Protection and Sustainability to allow the removal of one specimen tree."

Ms. Jessica Krueger  
Stanley Black & Decker  
June 12, 2019  
Page 3

This variance approval does not exempt future redevelopment of this site from complying with Baltimore County's Forest Conservation Law. It is the intent of this Department to approve this variance. Any changes to site layout may require submittal of revised plans and an amended variance request.

If you have any questions regarding this correspondence, please call Ms. Regina Esslinger at (410) 887-3980.

Sincerely yours,

David V. Lykens  
Director

c: Marian Honeczy

Stanley Black & Decker FCVA 6.12.19/FCVA/rae/shreir